

EXHIBIT 5

From: Gregory Schwed
Sent: Thursday, September 17, 2015 7:16 PM
To: Cremona, Nicholas; Rollinson, James H.; Wang, Ona Theresa
Cc: Paul Z. Lewis - Lewis & McKenna (PLewis@lewismckenna.com); ggoett@lewismckenna.com; Richard A Kirby (richard.kirby@bakermckenzie.com); Clinton, Laura K (Laura.Clinton@bakermckenzie.com); Daniel B. Besikof
Subject: Re: Madoff – Picard v. Cohen - Adv. No. 10-04311 (SMB)

Nick,

We had a chance to confer with the group and, as I mentioned in the voicemail I just left, the parties who would be seeking intervention are defendants in either all or a substantial portion of the currently active litigations being handled by Baker & McKenzie, Dentons, Elise Frejka, Loeb & Loeb, Pryor Cashman and Milberg. Of course, the full list will be annexed to the motion. I trust that's helpful for your purposes.

Please let us know as soon as you can whether the Trustee intends to oppose or not oppose the motion. Particularly if you are planning to oppose, we should discuss, at your soonest convenience, a mutually acceptable briefing schedule.

If you have any questions or otherwise wish to discuss the matter, please let me know.

Greg Schwed
Loeb & Loeb LLP
345 Park Avenur
New York, NY 10154
212-407-4815

Sent from my iPhone

On Sep 14, 2015, at 11:13 AM, Gregory Schwed <gschwed@loeb.com> wrote:

Nick,

Given that today and tomorrow are Rosh Hashana and several members of our group are observant, our response to your requests will likely be later in the week.

**Greg Schwed
Loeb & Loeb LLP
345 Park Avenue
New York, NY 10154
Tel: 212-407-4815
Fax: 212-937-4689**

From: Cremona, Nicholas [<mailto:ncremona@bakerlaw.com>]
Sent: Monday, September 14, 2015 9:59 AM
To: Gregory Schwed; Rollinson, James H.; Wang, Ona Theresa
Cc: Paul Z. Lewis - Lewis & McKenna (PLewis@lewismckenna.com); ggoett@lewismckenna.com; Richard A Kirby (richard.kirby@bakermckenzie.com); Clinton, Laura K

(Laura.Clinton@bakermckenzie.com); Daniel B. Besikof

Subject: RE: Madoff – Picard v. Cohen - Adv. No. 10-04311 (SMB)

Greg,

We are in receipt of your email and are considering your request. We expect to provide a response later this week. In the meantime, it would be helpful for the Trustee if you could identify the defendants on whose behalf you are seeking to intervene and the particular cases you are seeking to join to the Cohen proceeding. In addition, it would also be helpful if you could identify the similarly situated counsel you have been in contact with, the defendants they represent and which cases they are seeking to join to this proceeding to assist us in considering the scope of your request.

We look forward to hearing from you.

Thank you,
Nick

Nicholas J. Cremona | BakerHostetler

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ncremona@bakerlaw.com

From: Gregory Schwed [<mailto:gschwed@loeb.com>]

Sent: Friday, September 11, 2015 2:22 PM

To: Rollinson, James H.; Cremona, Nicholas; Wang, Ona Theresa

Cc: Paul Z. Lewis - Lewis & McKenna (PLewis@lewismckenna.com); ggoett@lewismckenna.com;

Richard A Kirby (richard.kirby@bakermckenzie.com); Clinton, Laura K

(Laura.Clinton@bakermckenzie.com); Daniel B. Besikof

Subject: Madoff – Picard v. Cohen - Adv. No. 10-04311 (SMB)

We represent various good-faith defendants in avoidance actions brought by the Trustee. It's recently come to our attention that the above-referenced adversary proceeding is scheduled for trial on October 14-16, 2015. See Revised Joint Pretrial Order dated August 28, 2015 (Dkt. No. 11154; 080-1789-SMB).

The Pretrial Order indicates that the issues to be tried include the applicability and nature of (1) the "value" defense and (2) prejudgment interest, if any.

These are issues that vitally affect our clients (and many other good-faith defendants). On behalf of our clients (and speaking for certain other similarly situated counsel who we have been in contact with), we ask if the Trustee would consent to our motion to intervene in this case.

We would seek to intervene only for the limited purpose of having an opportunity to brief these legal issues. Our intervention would have no effect on the trial schedule, or the trial witnesses or exhibits. (According to the Pretrial Order, it appears as if any briefing would take place only after the trial itself.)

Defendant has consented to such an intervention.

Needless to say, I'm happy to discuss the matter or provide more information, at your request.

**Greg Schwed
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